

REMARKS

It is respectfully requested that this application be reconsidered in view of the above amendments and the following remarks and that all of the claims remaining in this application be allowed.

Interview

The undersigned wishes to thank Examiner Yaen for the courtesies extended during the telephonic interview for this application conducted on June 18, 2003. During this interview, the undersigned addressed the rejection of Claim 16 under 35 U.S.C. §102(b) as well as the rejection of Claims 17-19, 21 and 25-27 under 35 U.S.C. §103(a) both over the cited Henry reference (Henry, et al., Pathobio., 67(5-6):306-310 (1999)). Specifically, the undersigned advised Examiner Yaen that this application was finally rejected; that a Notice of Appeal had been filed on March 17, 2003; and that an Appeal Brief has yet to be filed for this application.

The undersigned further advised Examiner Yaen that Claim 16 would be amended to more clearly delineate the claimed method from cancer treatment found in the cited Henry reference.

Examiner Yaen advised that any such amendment should be presented as part of a Request for Continued Examination (RCE). Otherwise, no agreement as to the allowability of such amended claims was reached.

Amendments

Claim 16 was amended to clearly recite that this claim is directed to the treatment of congestive heart failure and not to the treatment of cancer. Specifically, Claim 16 has been amended to recite treatment of congestive heart failure in a mammalian patient. This recitation is supported by Applicants' specification in, for example, the paragraph bridging pages 13 and 14 of the specification. Claim 16 has been further amended to recite administration of a congestive heart

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failure treating effective amount of apoptotic bodies with consequent alleviation of the patient's symptoms of congestive heart failure. Support for this recitation is found in Applicants' specification at, for example, page 13, lines 4-7.

As required, a marked-up version of amended Claim 16 is found in the amended found above. Non-amended pending Claims 17-28 are original above.

Rejections

As noted in their response to the final Office Action (paper no. 13), Applicants maintained that each of the rejections, including the provisional obviousness type double patenting rejection, relied in whole or in part upon the cited Henry reference. Applicants maintained in their response to this final Office Action that their claims were distinguished because Henry was directed to the use of apoptotic bodies in the treatment of cancer and not to the treatment of congestive heart failure.

In his Advisory Action, Examiner Yaen stated that the previously presented claims still read on the administration of apoptotic bodies in the treatment of a tumor. Applicants submit that now amended Claim 16 obviates this issue and request withdrawal of all pending rejections.

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CONCLUSIONS

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conversation would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant(s) petition(s) for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 559082005000.

Dated: August 18, 2003

Respectfully submitted,

By 

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